

1 MR. FUCHS: Objection, form.

2 If you know what that means you can
3 answer.

4 A It's irrelevant. I mean, that question
5 doesn't make sense.

6 BY MR. HERRINGTON:

7 Q If you can't answer it I'll restate it.

8 Business has improved at Diamond Club and
9 the fees that the dancers are charged have
10 increased as you say, correct?

11 A Yes.

12 Q Have the fees that dancers are charged
13 increased because you are no longer in need of --
14 the club no longer has trouble attracting as many
15 dancers?

16 MR. FUCHS: Objection to form.

17 If you know, you can answer.

18 A No, I don't know.

19 BY MR. HERRINGTON:

20 Q So you don't know why the fees have
21 increased?

22 A No.

23 Q You don't know?

24 A (Shaking head.)

25 Q Does Diamond Club keep a record of who

1 has -- which dancers have worked on a given shift?

2 A We have a sign-in sheet.

3 Q Does the sign-in sheet list the time, the
4 exact time that a dancer arrived?

5 A Yes.

6 Q And has that been the case before and
7 after the sale of the business?

8 A Yes.

9 Q Do you know how far back these records
10 are maintained?

11 A No.

12 Q Are there rules at Diamond Club about
13 dancers putting their hands or knees on the floor?

14 A No.

15 Q Are there dancers at Diamond Club who
16 have worked there more than one year?

17 A Yes.

18 Q Are there dancers at Diamond Club who
19 have worked there more than two years?

20 A Yes.

21 Q Can you estimate how many dancers
22 currently at Diamond Club have been there more than
23 one year?

24 A No.

25 Q Can you estimate how many have been there

1 more than two years?

2 A No.

3 Q Have more than five been there more than
4 a year?

5 A Yes.

6 Q In the course of a given month currently,
7 how many different dancers work at Diamond Club?

8 A I can't answer that.

9 Q Can you answer currently how many dancers
10 in the course of a single week typically work at
11 Diamond Club?

12 A No.

13 Q Would you say that more than 10 dancers
14 who have worked at Diamond Club in the past month
15 have been there more than two years?

16 A I don't know.

17 MR. FUCHS: I'm going to object. He's
18 already said he can't estimate that number, so...

19 MR. HERRINGTON: Well, I've asked for
20 minimum amounts.

21 MR. FUCHS: Well, I understand. He said
22 he can't estimate, so, are you going to ask him
23 about 20, 30?

24 BY MR. HERRINGTON:

25 Q Well, you did state that more than five

1 have worked there more than two years?

2 A Yes.

3 Q But you can't state whether it's more
4 than 10?

5 A No.

6 Q Who makes decisions about which dancers
7 are hired at Diamond Club?

8 A I do.

9 Q And how are those decisions made? How do
10 you make those decisions?

11 A I have them fill out an application.

12 Q Is there anything else required other
13 than a paper application?

14 A Body check.

15 Q And what does that entail?

16 A I just get a look at them naked.

17 Q Do they have to dance?

18 A No.

19 Q Does Diamond Club have any dancers
20 starting with them in the past -- in the past three
21 years, let's say, has Diamond Club had dancers
22 start working at Diamond Club who have never danced
23 before at a club?

24 A Yes.

25 Q Have any new dancers come on since the

1 sale of the business who did not have previous
2 dancing experience?

3 A Yes.

4 Q Can you tell me approximately your best
5 estimate of how many dancers are at Diamond Club
6 now on a typical Friday night?

7 A No.

8 Q Can you tell me approximately how many
9 dancers were there the last Friday night that you
10 worked?

11 A I don't work nights.

12 Q Well, you said you worked one in January;
13 is that correct?

14 A So you want to know about January?

15 Q Yeah. The last time you worked a Friday
16 night approximately how many dancers do you think
17 were there?

18 A I can't remember.

19 Q Would it probably be more than 10?

20 A Probably.

21 Q How many DJs did you say work at night
22 now?

23 A One as far as I know, but I don't work
24 night shift.

25 Q Do you know the name of the nightclub DJ

1 or the night DJ?

2 A I do.

3 Q And what is his name?

4 A Dice.

5 Q Do you know his legal name?

6 A I'm sorry, I don't.

7 Q Do you know how much the base hourly rate
8 for a waitress at Diamond Club is currently?

9 A No, sir.

10 Q Do you know if any waitresses are paid
11 currently 2.13 an hour or 2.15 an hour?

12 A I don't know what they make.

13 Q Are you certain that they are being paid
14 any wages at all?

15 A I'm under the impression they are.

16 Q Are you aware of what the VIP rooms at
17 Diamond Club are?

18 A Yes.

19 Q Are you aware that customers are required
20 to pay a fee for using a VIP room for an amount of
21 time?

22 A Yes.

23 Q And are you aware that dancers are
24 required to charge a minimum amount for a dance for
25 a set amount of time in a VIP room?

1 A Yes.

2 Q Is there a maximum amount that a dancer
3 can charge for dances in a VIP room?

4 A No.

5 Q Does Diamond Club keep records of dance
6 fees in VIP rooms made in cash?

7 A I don't know.

8 Q Does Diamond Club keep records of dance
9 fees for VIP rooms made by credit card?

10 A I don't know. I'm a manager, not the
11 bookkeeper.

12 Q Are you aware of dancers receiving IOU
13 slips for monies collected in VIP rooms by credit
14 card?

15 A Yes.

16 Q How are those IOU slips -- how do dancers
17 cash in an IOU slip and receive cash for that?

18 A They bring it to the club and usually
19 hand it to a bartender --

20 Q Who do they hand --

21 A -- or me.

22 Q -- the IOU slip to?

23 A To me or a bartender.

24 Q And then if it's given to you you would
25 give it to a bartender?

1 A No, I would take it to Ms. Carmen.

2 Q To Carmen.

3 What about before the sale of the club?

4 A I would take it to Karen.

5 Q To Karen, okay.

6 And they would take the IOU slip from

7 you?

8 A Yes.

9 Q And they would give you an amount of
10 cash?

11 A No.

12 Q What would they give you?

13 A Check.

14 Q And the check --

15 A Only.

16 Q -- would be made out to whom?

17 A The dancer.

18 Q The dancer who gave you the IOU slip?

19 A Precisely.

20 Q And are these IOU slips turned in to you
21 or to Carmen or to Karen --

22 A Yes.

23 Q -- on the same shift that they are --

24 that they perform the dance that got them the IOU

25 slip?

1 A Not usually.

2 Q Not usually.

3 Do they wait a set amount of time before
4 bringing IOU slips in?

5 MR. FUCHS: Object to form.

6 If you know.

7 A You know, that's just a hard question to
8 answer. They may not work for a week.

9 BY MR. HERRINGTON:

10 Q But they typically would not bring the
11 IOU slip in the same night that they earned it?

12 MR. FUCHS: Objection to form.

13 A Typically, no.

14 BY MR. HERRINGTON:

15 Q Are dancers required to pay the DJ a
16 certain percentage of their tips earned?

17 A Yes.

18 Q And what is that percentage?

19 A 10 percent.

20 Q Is there a minimum amount per shift that
21 each dancer has to pay the DJ?

22 A Suggested \$10.

23 Q And do dancers pay a percentage of their
24 earnings from VIP room dances to the DJ?

25 A I imagine that's included, yes.

1 Q What would happen if a dancer did not
2 give 10 percent of her tips or the cash she
3 receives from customers to the DJ?

4 MR. FUCHS: Objection to form.

5 MR. HERRINGTON: I can rephrase.

6 BY MR. HERRINGTON:

7 Q Would there be any consequence for a
8 dancer not giving the DJ 10 percent of her tips or
9 monies received in VIP rooms?

10 MR. FUCHS: Same objection.

11 A That would be between the DJ and the
12 dancer.

13 BY MR. HERRINGTON:

14 Q And you would not intervene if the DJ
15 complained?

16 A If they complained -- if a DJ complained?

17 Q Yes.

18 A Haven't had that problem.

19 Q I'm sorry?

20 A Haven't had that problem.

21 Q If a DJ told you that a dancer was not
22 giving him 10 percent of her tips, what would your
23 response be?

24 MR. FUCHS: Objection to form.

25 MR. SCHLANGER: Objection, calls for

1 speculation.

2 MR. FUCHS: Objection to form. I'm

3 sorry. I made an objection.

4 BY MR. HERRINGTON:

5 Q As a manager you do have to --

6 A Keep the peace.

7 Q Do you have to react to new situations,
8 unexpected situations?

9 A Say that again.

10 Q As a manager, do you encounter unexpected
11 situations?

12 A Yes.

13 Q And based on your experience working in
14 the club, can you not tell us what your response
15 would be if a dancer refused to tip out a DJ?

16 MR. FUCHS: I'm going to object.

17 Matthew, you're asking him, I think, improper
18 hypothetical questions and you're asking him to
19 speculate what his response would be under a set of
20 circumstances --

21 THE WITNESS: Exactly.

22 MR. FUCHS: -- that haven't existed.

23 MR. MAGNUS: Not just that, you're asking
24 clearly a question outside the scope of the
25 30(b) (6).

1 MR. HERRINGTON: I'll talk to Anthony and
2 we'll come back to it if we need to.

3 BY MR. HERRINGTON:

4 Q Are you aware if Diamond Club issues
5 1099s to dancers?

6 Let me back up.

7 Do you know what an IRS Form 1099 is?

8 A Yes, I do.

9 Q Are you aware if Diamond Club issues
10 1099s to dancers?

11 A I'm aware that they do, yes.

12 Q Did they do it this year?

13 MR. MAGNUS: You talking about '13?

14 MR. HERRINGTON: No, did they issue them
15 in 2014.

16 MR. MAGNUS: Have they yet?

17 MR. FLETCHER: For tax year 2014.

18 MR. HERRINGTON: They would have issued
19 it the following year.

20 A Yes.

21 BY MR. HERRINGTON:

22 Q They did issue them this year.

23 And are they issued for every dancer who
24 has worked in the previous tax year?

25 A Yes.

1 Q And has that been the case for the past
2 six years?

3 A Uh-huh. Yes, sir.

4 Q What earnings are included on those IRS
5 Forms 1099?

6 A To my knowledge, it's a credit card for
7 VIP.

8 Q Are any other tips or earnings of the
9 dancers included?

10 A Not to my knowledge.

11 Q Do you know why, for example, cash tips
12 are not included?

13 A Because they're subcontractors, they're
14 responsible for their own upkeep of their earnings
15 and their taxes.

16 Q Who accepts VIP room fees from customers?
17 Is there a set employee or person at Diamond Club
18 who accepts the room fees from customers?

19 A A waitress.

20 Q A waitress. So any waitress?

21 A Yes.

22 Q Do dancers pay you anything per shift
23 that they work?

24 A They pay a house fee.

25 Q They pay a house fee. And how much is

1 that?

2 A Some of that money comes to me.

3 Q You said earlier the house fee, the base
4 house fee is \$10?

5 A We talking before or now?

6 Q Uh-huh, now. What is the base --

7 A Yeah.

8 Q -- house fee now?

9 A \$10.

10 Q And what was the base house fee last
11 year?

12 A 20.

13 Q 20, okay.

14 So the money that you receive from
15 dancers comes out of the \$10 or is it in addition
16 to the \$10?

17 A No, comes out of the \$10.

18 Q And earlier last year, did it come out of
19 the \$20 or was it in addition to the \$20?

20 A Comes out of the \$20.

21 Q There is not a separate manager fee on
22 top of the house fee?

23 A Uh-uh.

24 Q Okay.

25 MR. FLETCHER: Is that a no.

1 BY MR. HERRINGTON:

2 Q Would you say yes or no?

3 A No.

4 Q When dancers pay additional or larger
5 house fees for arriving late to a shift, who is it
6 that collects the difference between the base fee
7 and the higher fee?

8 A I don't understand the question.

9 Q If a dancer arrives at noon, she pays how
10 much?

11 A Are you asking me where the money goes?

12 Q I'm saying, if a dancer comes later to a
13 shift and therefore pays extra, does the base
14 amount and the extra amount both go to the same
15 place?

16 A I don't understand that question.

17 Q Is it retained by the house, is the extra
18 amount retained by you, or by the DJ, or anyone
19 else?

20 A By the house.

21 Q It's all retained by the house?

22 A (Nodding head.)

23 Q Prior to the new ownership, when C.B.
24 Jones owned Diamond Club, what would the club's
25 response to a girl -- I'm going to have to refresh

1 my memory. I'm going to have to ask you a couple
2 of repetitive questions.

3 When C.B. Jones owned the Diamond Club
4 prior to the new ownership, were dancers required
5 to wear garters?

6 A Not required, suggested.

7 Q Were they permitted to leave the club
8 with customers?

9 A It was against my better judgment to let
10 them do that.

11 Q And if they wanted to leave with a
12 customer what did you do?

13 A I would strongly advise them not to do
14 it.

15 Q And if they ignored your advice what
16 would you do?

17 A No penalty.

18 Q Did you ever impose penalties for
19 violation of any rules on any dancers in the past
20 three and a half years?

21 A What do you mean by penalties?

22 Q Did you ever impose or require dancers to
23 pay anything other than a house fee, an additional
24 house fee for coming later, a percentage of monies
25 to the DJ, that was based on improper conduct of

1 any kind?

2 MR. FUCHS: I think he's talking about
3 fines, if I may.

4 A There were several occasions when I had a
5 dancer left intoxicated.

6 BY MR. HERRINGTON:

7 Q Uh-huh.

8 A After being told not to drive, was fined.

9 Q How much would you typically fine someone
10 for leaving intoxicated?

11 A To drive, after I already Breathalyzed
12 them, after being told not to drive, \$200 fine.

13 Q And who would retain that money?

14 A It would go to the house, but it usually
15 was never collected.

16 Q Did you ever impose any other kinds of
17 fines for improper conduct?

18 A No, sir.

19 MR. COLLINS: Can we take a few minutes.

20 (Recess taken 1:52 - 1:55 p.m.)

21 MR. HERRINGTON: We're back.

22 BY MR. HERRINGTON:

23 Q Just a few more minutes and then we'll be
24 done.

25 A Okay.

1 Q I only have really one area left that I
2 want to talk about and that's your communications
3 and relationship with C.B. Jones, prior to the --
4 you know, prior to the new ownership from the time
5 that you started in late 2007 through December of
6 2013, any of my questions relate only to that
7 period, okay?

8 A Very well.

9 Q How do you know C.B. before you were
10 brought on as a manager?

11 A I was introduced to him by another friend
12 who I done work for. I remodeled his house.

13 Q Had you ever done any management of a
14 nightclub or a bar before?

15 A No.

16 Q And from the time that you started, was
17 C.B. ever heavily involved in the day-to-day
18 operation of Diamond Club at any time?

19 A Wasn't at the club.

20 Q Do you know if he had been more actively
21 involved in the operation of the club day-to-day
22 shortly before you arrived?

23 A I have no idea.

24 Q When you were starting out as a manager
25 of Diamond Club, did you create any kinds of rules

1 or make any new policies on your own?

2 A No.

3 Q Who was your boss while you were working
4 at Diamond Club during C.B. Jones' ownership?

5 A I was the boss.

6 Q Did you have anyone directly superior to
7 you?

8 A No.

9 Q No one could tell you what to do
10 concerning your job?

11 A Well, Mr. Jones could if he -- if he felt
12 the need.

13 Q But he rarely felt the need?

14 A Yeah, rarely felt the need.

15 Q Okay.

16 A If ever.

17 Q How often did you speak to -- how often
18 did you speak to C.B. when you first started as a
19 manager? How often were you in communication with
20 him about the club?

21 A About the club?

22 Q Uh-huh.

23 A When I first started probably four times
24 a week.

25 Q And over the years did that decrease?

1 A Not our conversations, but about work
2 definitely decreased.

3 Q He was less interested in the operation
4 of the club --

5 A Yeah.

6 Q -- as time went by?

7 Do you know why?

8 A We were friends, he didn't want to talk
9 about work.

10 Q Do you believe it was because as you
11 gained more experience at the club he trusted your
12 judgment more?

13 A Absolutely.

14 Q Have you ever had any role in doing
15 advertising for Diamond Club?

16 A No.

17 Q In placing orders with advertisers,
18 you've never had even a clerical role in any of
19 that?

20 A No, no clerical role.

21 Q Does Diamond Club do special promotional
22 nights?

23 A I understand it does now.

24 Q It does now?

25 A But I'm not on night shift.

1 Q During the time that C.B. owned the club,
2 can you give me any examples of typical promotions
3 that would be advertised?

4 A There was no promotions.

5 Q There were no promotions under C.B.
6 Jones?

7 A Well, you'll have to describe what you
8 mean by promotions to me.

9 Q Drink specials?

10 A Not a lot.

11 Q Special dance acts?

12 A Didn't do it.

13 Q Guest celebrities?

14 A None.

15 Q Guest DJs?

16 A No.

17 Q Did Mr. Jones ever call you for advice
18 about the operation of the club -- or I'm sorry,
19 did you ever call Mr. Jones for advice about
20 operation of the club?

21 A I'm glad you rephrased that.

22 Q Yeah.

23 A Sure, I did.

24 Q It's a long day.

25 A He never asked for my advice.

1 Q And can you give me examples of things
2 that you would call him for advice about?

3 A Normally the only time I would call him
4 would be if a situation arised where a car was
5 broken into, brief case was stolen, maybe there was
6 an altercation in the club where a customer needed
7 some special attention.

8 Q Okay.

9 A Usually monetary.

10 Q Uh-huh.

11 A Or --

12 Q Did you ever -- I'm sorry, I don't want
13 to interrupt you.

14 A Go ahead. I interrupted you.

15 Q Did you ever contact Mr. Jones about
16 problems with any employees or dancers?

17 A If I did it was a rare occasion.

18 Q You were left to --

19 A Yes.

20 Q -- make decisions about how to deal with
21 employees?

22 A Uh-huh.

23 Q Okay.

24 MR. MAGNUS: Say yes.

25 A Yes, sir.

1 MR. HERRINGTON: I think that's it.

2 MR. FUCHS: Very good.

3 We'll reserve signature, please.

4 Thanks you, folks.

5 MR. HERRINGTON: Thank you.

6 THE COURT REPORTER: Did you need copies
7 of the depositions?

8 MR. FUCHS: Yes. Yes. I usually just
9 get e-trans. That's all I need.

10 MR. COLLINS: Same for us.

11 (Deposition concluded at 2:01 p.m.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

STATE OF GEORGIA:

COUNTY OF FULTON:

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the questions and answers thereto were reduced to typewriting under my direction; that the foregoing Pages 1 through 48 represent a true and correct transcript of the evidence given upon said hearing, and I further certify that I am not of kin or counsel to the parties in the case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case. The witness did reserve the right to read and sign the transcript.

This, the 18th day of August, 2014.

Judith L. Leitz Moran, CCR-B-2312
Certified Court Reporter

1 DISCLOSURE OF REPORTER

2
3 Pursuant to Article 10.B of the Rules and
4 Regulations of the Board of Court Reporting of the
5 Judicial Council of Georgia, I make the following
6 disclosure:

7 I am a Georgia Certified Court Reporter. I am
8 here as a representative of Regency-Brentano, Inc.

9 I am not disqualified for a relationship of
10 interest under the provisions of O.C.G.A.
11 9-11-28(c).

12 I was contacted by the office of
13 Regency-Brentano, Inc., to provide court reporting
14 services for this deposition.

15 I will not be taking this deposition under any
16 contract that is prohibited by O.C.G.A. Section
17 15-14-37 (a) and (b).

18 I have no exclusive contract to provide
19 reporting services with any party to the case, any
20 counsel in the case, or any reporter or reporting
21 agency from whom a referral might have been made to
22 cover this deposition.

23 I will charge my usual and customary rates to
24 all parties in the case, and a financial discount
25 will not be given to any party to this litigation.

This, the 18th day of August, 2014

21
22 Judith L. Leitz Moran, CCR-B-2312
23 Certified Court Reporter
24
25

DISCLOSURE OF FIRM

I, Regency-Brentano, Inc., do hereby disclose pursuant to Article 10.B. of the Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia that Regency-Brentano, Inc., was contacted by Smith Collins LLC to provide court reporting services for this deposition and there is no contract that is prohibited by O.C.G.A. 15-14-37(a) and (b) or Article 7.C. of the Rules and Regulations of the Board for the taking of this deposition.

There is no contract to provide reporting services between Regency-Brentano, Inc., or any person with whom Regency-Brentano, Inc., has a principal and agency relationship nor any attorney at law in this action, party to this action, party having a financial interest in this action, or agent for an attorney at law in this action, party to this action, or party having a financial interest in this action. Any and all financial arrangements beyond our usual and customary rates have been disclosed and offered to all parties.

This 18th day of August, 2014.

FIRM REPRESENTATIVE
REGENCY-BRENTANO, INC.

1	Page/Line/	Change	/	Reason
2	___/___/	___	/	___
3	___/___/	___	/	___
4	___/___/	___	/	___
5	___/___/	___	/	___
6	___/___/	___	/	___
7	___/___/	___	/	___
8	___/___/	___	/	___
9	___/___/	___	/	___
10	___/___/	___	/	___
11	___/___/	___	/	___
12	___/___/	___	/	___
13	___/___/	___	/	___
14	___/___/	___	/	___
15	___/___/	___	/	___

16

17

18

HAROLD L. HUNT

19

20 Sworn to and subscribed before me
21 this ___ day of ___, 20__.

22

23

Notary Public.

24

My Commission Expires _____.

25